Casey, Gentz & Sifuentes, L.L.P.

919 Congress Ave., Ste. 1060
Austin, Texas 78701
Telephone (512) 480-9900
Facsimile (512) 480-9200

Legislative Consultant: Kathy Grant*
*Not licensed to practice law

Robin A. Casey
Susan C. Gentz
Jesús Sifuentes
Diane M. Barlow
Eric H. Drummond
Miguel A. Huerta
Valerie P. Kirk
Bradford W. Bayliff

REDACTED - FOR PUBLIC INSPECTION

VIA HAND DELIVERY

Magalie Roman Salas, Secretary
Federal Communications Commission
445 – 12th Street, S.W.
TW-B-204
Washington, D.C. 20554

Re: Application of SBC Communications, Inc.: Comments of the CLEC Coalition
CC Docket No. 00-4

Dear Secretary Salas:

The CLEC Coalition is filing two versions of its Comments in the above referenced docket. docket. The Coalition is submitting an original and two copies of a Redacted – for Public Inspection version of its filing as well as one copy of the portion of its Comments that contain confidential information. The confidential information is marked Confidential – Not for Public Inspection information copy and should be treated accordingly. Please date stamp the extra copies of each sumbission and return it to the courier.

If you have any questions, please contact Ross Buntrock at (202) 955-9600.

Sincerely,

Robin Casey RAB

Robin Casey

Enclosure

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Application by SBC Communications Inc.,	)	
Southwestern Bell Telephone Company, and	)	
Southwestern Bell Communications Services,	)	**CC Docket No. 00-04**
Inc. d/b/a Southwestern Bell Long Distance	)	
for Provision of In-Region, InterLATA	)	
Services in Texas	)	

COMMENTS OF THE CLEC COALITION

THE CLEC COALITION[1]

By:
Robin A. Casey
Eric H. Drummond
Susan C. Gentz
CASEY, GENTZ & SIFUENTES, L.L.P.
919 Congress Avenue
Suite 1060
Austin, Texas 78701
(512) 480-9900
(512) 480-9200 FAX
edrummond@phonelaw.com

Its Attorneys

[1] For purposes of these comments, the members of the CLEC Coalition are Birch Telecom, Inc., ICG Communications, Inc., NEXTLINK Texas, Inc., and Time Warner Telecom, L.P. Each of these CLECs actively participated in Project No. 16251 before the Public Utility Commission of Texas.

Summary

The principal purpose of section 271 of the Telecommunications Act of 1996 ("FTA" or "Act"), is to ensure that the provisions in the Act designed to foster competition in the local exchange market are fulfilled. As discussed below, Southwestern Bell Telephone Company ("SWBT") has made real progress with regard to fulfilling certain of the section 271, fourteen point checklist items.[2] Despite the progress made, however, very real problems remain with regard to certain items that are today preventing CLECs in Texas from fully competing with SWBT. These competition-affecting problems result from discriminatory access to interconnection trunks, network elements (OSS and local loops), and significant problems with white pages directory listings and number portability.

The problems CLECs today are experiencing with accessing SWBT's network ultimately restrict consumer choices and deny Texas consumers the benefits of full and fair competition in the local exchange market. SWBT must be required to satisfy all of the checklist items before being granted in-region, interLATA authority. Texas must be assured that SWBT has the capability to offer nondiscriminatory access to its OSS, local loops, white pages directories and number portability databases before the local exchange market can reasonably be considered "irreversibly open." Specifically, SWBT's Application does not meet the following checklist items:

- Item (i) – Nondiscriminatory access to interconnection trunks and collocation;
- Item (ii) – Nondiscriminatory access to unbundled network elements;
- Item (iv) – Nondiscriminatory access to unbundled local loops, including DSL capable loops;
- Item (viii) – Nondiscriminatory access to White Pages directory listings; and
- Item (xi) – Number Portability

[2] For instance, progress was made in the areas of collocation, UNEs, and extended enhanced link.

Until SWBT is able to provide this Commission with the evidence necessary to find that *every* checklist item has been met, SWBT's Application should be denied.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Texas	))))))	**CC Docket No. 00-04**

COMMENTS OF THE CLEC COALITION

TABLE OF CONTENTS

CLEC COALITION'S ATTACHMENTS
TABLE OF CONTENTS

15	Comments of Northpoint on Telcordia's Report Regarding SWBT's OSS Readiness, Dated 10/13/99	Comments
16	Telcordia Final Report, Dated September 1999	OSS Final Testing Report
17	Comments of CompTel and TEXALTEL, Dated 10/13/99	Comments
18	Telcordia Final Report Attachment A, Dated September 1999	Test Results
19	SWBT's Comments on the Telcordia OSS Readiness Report, Dated 10/13/99	Comments
20	Public Utility Commission of Texas Hearing Transcript, Dated 10/29/99	Transcript
21	Public Utility Commission of Texas Open Meeting Transcript, Dated 10/20/99	Transcript
22	Public Utility Commission of Texas Hearing on the Merits Transcript, Dated 11/2/99	Transcript
23	Public Utility Commission of Texas Final Orders/Open Meeting Transcript, Dated 10/21/99	Transcript

Introduction

On January 10, 2000, SBC Communications, Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance (collectively, "SWBT") filed this application with the Federal Communications Commission ("FCC" or "Commission") requesting authority to provide in-region, interLATA services in the State of Texas. SWBT's filing encompasses an imposing 200,000 plus pages of documents. Although significant progress was made in Texas since SWBT's initial filing in 1998 with regard to laying the foundation for an open market, much work remains to be done. Thus, it is important to note at the outset that, while SWBT in many instances worked closely with CLECs in Texas to open its market to competition and to solve service-affecting problems, SWBT's Application is not comparable to the Bell Atlantic-New York application in several critical respects and does not meet the standards enunciated under section 271 of the FTA. Indeed, SWBT's performance in Texas is in many instances so flawed because of its undue reliance on manual ordering and provisioning processes that result in service-affecting problems and disruption of service, as to require denial of its request for interLATA authority.

Under the FTA, SWBT not only must remove the barriers that formerly protected its monopoly status, but also ensure that the local market in which it seeks to provide long distance service is irreversibly open to competition.[1] Rather than being shielded from competition, SWBT is required by the FTA to open its network and markets to foster competition in the local exchange market. One aspect of its duty to remove barriers to competition is its obligation to provide nondiscriminatory access to interconnection and network elements under section 271(c)(2)(B)(i)-(xiv).[2] As a practical matter, nondiscriminatory access means that interconnection and access to the pre-ordering, ordering, provisioning, maintenance and repair

---

1 Memorandum Opinion and Order, *Application by Bell Atlantic-New York for Authorization under Section 271 of the Communications Act to provide In-Region InterLATA Services in the State of New York*, CC Docket No. 99-295, FCC 99-404 (rel. Dec. 22, 1999) ¶ 44. ("*Bell Atlantic New York Order*").

2 *Id.* at ¶ 18.

and billing, and Operational Support Systems ("OSS") that SWBT utilizes for itself and its affiliated entities must be available to CLECs on a parity basis. *Only* when SWBT has taken these necessary steps, may it be permitted to offer long distance service in the same areas in which it provides local exchange service. The FTA is unequivocal in its demand that competition in Texas local exchange markets be irreversibly established before SWBT is permitted to provide in-region, interLATA service.

CLECs in Texas are indeed fortunate to have Commissioners and commission staff of the caliber found at the Public Utility Commission of Texas ("Texas Commission" or "PUC"). Without their dedication to the opening up of the local market in Texas, the CLEC Coalition never would be able to say that SWBT is close to meeting the 271 checklist. Commissioners Pat Wood, Judy Walsh and Brett Perlman demonstrated time and again their deep understanding of the most technical issues and competitive concerns. These Commissioners and their staff devoted countless hours to pushing and prodding SWBT into a pro-competitive mindset and, when SWBT would not acquiesce, stood firm and said, "if you want our recommendation, you will do this." Many collaborative sessions and private negotiations with SWBT did not end until nearly midnight. Because the Texas Commission was committed to conducting its 271 review in an expedited time frame, the time constraints imposed on the staff and parties were immense.[3] The Coalition greatly appreciates the hard work and long hours the PUC staff devoted to this effort and recognizes the many positive results of their labor. In the end, significant progress was evident in numerous areas: collocation, performance measures, UNEs, extended enhanced link ("EEL"), the T2A and more. As proof of the PUC's foresight, many of the improvements it directed SWBT to implement pre-dated the Commission's Collocation and UNE Remand orders.[4]

---

[3] By way of comparison, the 271 collaborative process in New York took a full year longer than the process conducted in Texas.

[4] *In re Development of Wireline Services offering Advanced Telecommunications Capability*, First Report and Order and Notice of Further Proposed Rulemaking, CC Docket No. 98-147, FCC 98-48 (March 31, 1999)

Despite the Texas Commission's notable achievements in these and other areas, the record now before this Commission unfortunately shows that SWBT still has not met all of the statutory requirements contained in the section 271 checklist. As discussed here, CLECs in Texas continue to experience significant problems with respect to the availability of unbundled local loops, OSS, directory listings and interconnection trunks. Some of these problems (*e.g.*, interconnection trunks) are issues the PUC has tried to resolve since the beginning of the collaborative process. Others only came to light as more local service providers entered the Texas market and existing providers further developed their business strategies. Examples of these issues are OSS problems involving orders that fall out for manual processing, performance measurements that do not capture service affecting problems, and the significant number of SWBT OSS-related manual errors, all of which only became evident near the end of the 271 proceeding when there was no real ability or forum to address them, either because the original scope of Telcordia's OSS testing was far too narrow to evaluate the problems or the issues had been prematurely "closed" by Telcordia. Whatever the reasons for the PUC's failure to resolve all of the CLECs' service-affecting problems with SWBT, the Commission now must independently evaluate SWBT's compliance with the fourteen checklist items based on the record before it.

The basis for SWBT's claims that its OSS is commercially ready is the Telcordia third-party test. In fact, SWBT goes so far as to claim that "Telcordia's test provided more reliable results than those obtained in the highly regarded testing of Bell Atlantic's systems in New York, because Bell Atlantic's testers were concededly unable to duplicate an actual competitor's relationship with Bell Atlantic."[5]

("Collocation Order"); and Order on Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket Nos. 98-147 and 96-98, FCC 99-355 (January 10, 2000) ("UNE Remand Order").

[5] SWBT Brief in Support of Application, p. 28. In support of SWBT's reliance on the Telcordia Report, SWBT affiant Liz Ham details extensive discussion and comparison of the Telcordia and KPMG OSS tests in her affidavit (Ham Affidavit, ¶¶ 251-266).

The Commission has determined that "the persuasiveness of a third-party review is dependent on the conditions and scope of the review . . . [and] were a third-party test less comprehensive, less independent, less blind, and, therefore, less useful in assessing the real world impact of a BOC's OSS on competing carriers, we would not necessarily find it persuasive and may accord it less weight than we do the KPMG Peat Marwick and Hewlett Packard ("KPMG") Final Report."[6] The weight this Commission gave to the KPMG OSS test is clearly reasonable based on the fact that the test was "comprehensive" and was conducted in "an open testing environment in which they [KPMG] consulted with interested parties, issued draft plans and reports, and reported in detail on issues of serious concern.[7] In light of this Commission's views regarding third-party OSS testing, close scrutiny of the Telcordia OSS test is warranted.[8]

First, unlike the KPMG test, Telcordia did *not* test manual processes. As a result, the processes for "complex" business orders were omitted from the test. Telcordia's omission of this critical facet of SWBT's OSS, by itself, renders Telcordia's conclusion that SWBT's OSS is commercially ready meritless. As further detailed below, the Commission must be cognizant that the *majority* of CLEC orders in Texas are either complex orders that are manually submitted or are substantially processed in a manual manner after falling out of SWBT's mechanized OSS.

Second, in contrast to the Bell Atlantic-New York evaluation, the proceeding in Texas was virtually closed to any real CLEC participation. KPMG in New York initiated weekly conference calls with CLECs and monthly face-to-face meetings, and meeting minutes were prepared and circulated for CLEC input. In Texas, severe restrictions were placed on the ability of participants to make filings; restrictions were imposed on attendance at Technical Advisory

---

6 *Bell Atlantic New York Order* at ¶ 100.

7 *Id.*, at ¶ 44.

8 Indeed, the Commission stated in the Bell Atlantic New York Order that it was essential to analyze "the critically important third-party testing conducted by KPMG and Hewlett Packard under the supervision of the New York Commission." ¶ 81.

Group ("TAG") meetings; and absolutely no minutes were taken, no action items recorded and no summaries of "working group" minutes submitted for review and discussion.[9]

Last, in contrast to the KPMG test, the test performed by Telcordia was substantially less blind. SWBT was involved from the very beginning in deciding the types of orders to be processed, was notified by Telcordia of the testing dates, and knew that such orders would be originated through EDI, which at the time had no significant commercial volume. Moreover, during the test itself, Telcordia continually relied upon SWBT experts to make decisions regarding the test, often without CLEC input or notice.

The Telcordia and KPMG tests thus are not at all comparable in their persuasiveness. The Telcordia test was profoundly less comprehensive, less blind, and less open. Further, the Telcordia test did not address Help Desk Administration, Account Management Support, and Information Services Call Center, all issues which are the source of ongoing problems in Texas. Telcordia did not consider contemporaneous commercial activities and results,[10] information critical to an objective evaluation of SWBT's OSS in Texas and essential to realistically determining whether SWBT's OSS in Texas is commercially ready.[11] An objective and rational appraisal of the Texas Telcordia OSS test does not support SWBT's conclusion that "SWBT's electronic interfaces have been subjected to the most comprehensive review of any OSS in the nation."[12] This Commission should not lower the bar established in its Bell Atlantic New York

---

9 CLECs were notified at the initial TAG meeting that they would not need to participate unless they could devote one or more persons for the entirety of the process and attend every meeting. Many CLECs, including ICG, could not afford this commitment, literally and figuratively. ICG Rowling Affidavit, ¶ 39.

10 Telcordia did not consider contemporaneous commercial activity even when it was clear to all of the participants involved that consideration of such information would be essential to understanding the root cause of many of the problems that occurred during the test.

11 The CLEC Coalition mentions only a few of the considerable failings of the Telcordia OSS test. Although SWBT acknowledges many of these failings in its affidavit (Ham Affidavit, pp. 126-128, ¶ 263), SWBT claims that failings or omissions of the Texas test were some sort of *advantage* for Texas CLECs. In truth, moving the emphasis of the test from third-party tester interaction with the BOC to carrier-to-carrier testing means that BOC-generated problems will be blamed on the CLECs and not evaluated by the neutral third-party tester.

12 SWBT Ham Affidavit, p. 175, ¶ 375. In fact, Telcordia's review of SWBT's OSS was distinctly less

Order and conclude that OSS testing of the scope and depth of the Telcordia test is a measure of the commercial readiness of an RBOC's OSS.

The CLECs providing comments today are not interested in preventing SWBT from entering the long distance market.[13] What these companies need is verifiable assurance, based on real world experiences, that the local exchange market is irreversibly open to competition and that the "former" monopoly provider cannot backslide and smother what little competition exists by manipulating access to its network and network elements.

The CLEC Coalition understands from experience that dismantling operational barriers to entry is just as difficult, and at the same time just as important to competitive entry, as the removal of economic and regulatory barriers.[14] Without parity access to interconnection and to fully functional and automated pre-ordering, ordering, provisioning, maintenance and repair, and billing OSS, competitors will not be able to avail themselves of automated systems that SWBT uses for its own retail services. Absent a corporate attitude that facilitates competition consistent with the mandates of the FTA and the FCC's orders, SWBT will continue to thwart and perhaps reverse the newly opened local market in Texas. So long as CLECs in Texas cannot rely on SWBT to timely and seamlessly provide access to its network in order to provide reliable service to CLEC customers, true competition in Texas will not be able to take root. For the reasons stated below, the CLEC Coalition contends that SWBT's Application does not meet the standards set forth in section 271 of the FTA and should be denied.

---

comprehensive in scope as was even discussed by Telcordia in its Final Report, *infra.*

[13] In fact, one of the CLEC Coalition members, NEXTLINK, supported Bell Atlantic's FCC 271 application based on its market experience in New York. NEXTLINK, however, believes that, unlike Bell Atlantic in New York, SWBT's application does not demonstrate compliance with the section 271 statutory requirements.

[14] *See, In the Matter of Implementation of Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, CC Docket No. 96-98, FCC 96-325 (rel. August 8, 1996) ¶ 18.

A. Checklist Item I – Nondiscriminatory Access Interconnection

SWBT has failed to provide nondiscriminatory interconnection to its network as is required by the competitive checklist because SWBT has unreasonably and consistently delayed its provision of interconnection trunks to CLECs and, consequently, has caused CLEC customers to experience blocking and delays in obtaining service from CLECs. SWBT's trunking policies allow SWBT to manage and restrict competitors' growth by failing to provide the quantity and types of interconnection trunks requested by CLECs in a timely manner. In addition, SWBT fails to satisfy this Checklist Item because its current Texas Collocation Tariff allows SWBT to charge CLECs ordering cageless collocation for a "partition" around SWBT's own equipment, a charge which is inconsistent with the Commission's *Collocation Order*.

1. Provision of Interconnection Trunks

As shown by the affidavits of Kelsi Reeves and Nick Summitt of Time Warner Telecom, L.P. ("TWTC"),[15] SWBT refused to provision tandem trunks and imposed a cap on the number of trunks a CLEC can order per day, thereby causing CLEC customers to experience blocking and delays in obtaining service from their chosen CLEC provider.

Although SWBT has now rephrased its daily trunk limit, claiming that it is only a "guideline," during all of 1999 its personnel clearly conveyed to CLECs that they could not count on obtaining more than eight (8) trunks per day per region. This limitation caused CLECs to slow or completely halt their marketing efforts and, in some instances, resulted in CLECs being unable to provide service to a new customer or prevented CLECs from ensuring that existing customers did not experience blocking of their calls. The competitive harm a CLEC suffers from not being able to expand its network to meet customer demand or prevent blocking is considerable.

---

[15] The affidavits of four ALTS members, including Time Warner Telecom, L.P., are appended hereto and are the basis for the factual representations in these comments and the separately filed comments of the Association for Local Telecommunications Services ("ALTS").

TWTC is a facilities-based CLEC that operates extensive fiber optic networks in the cities of Austin, San Antonio and Houston and recently turned up its network in Dallas.[16] As a facilities-based company that offers services largely over its own network, the primary services it obtains from SWBT are interconnection facilities, or trunks, used to connect the TWTC and SWBT networks.

Because TWTC, like SWBT, must make capital investments and budgeting decisions in order to "grow" its network and accommodate the needs of new and existing customers, it expends considerable effort to ensure that its forecasts for facilities are accurate and will enable TWTC to meet its current and future needs. TWTC provides SWBT trunking forecasts twice a year, but has proposed to begin providing quarterly forecasts. Early in the relationship, SWBT was reluctant to believe that TWTC could meet the numbers it forecasted. Over time, SWBT learned that TWTC's forecasts are reliable and SWBT has communicated this not only to TWTC, but also in public hearings before PUC Commissioners and staff.[17] Nonetheless, as the affidavit of Nick Summitt shows, TWTC was repeatedly prevented by SWBT from ordering sufficient numbers of trunks in Houston during 1999 and experienced significant levels of blocking in Houston throughout the year.

Since the inception of Project No. 16251 in early 1998, TWTC has made known to SWBT and the PUC its difficulties in obtaining interconnection trunks from SWBT on a timely basis, particularly in Houston.[18] TWTC turned away potential customers and limited its marketing efforts in Houston for fear of not being able to deliver timely, quality and consistent service to its customers.[19] Beginning in early 1999, TWTC tried to augment its network with

---

16 *See* TWTC Reeves Affidavit at ¶11.

17 *Id.* at ¶ 35.

18 *See* TWTC Reeves Affidavit at ¶¶ 15.

19 *See* TWTC Summitt Affidavit at ¶¶ 2-14.

additional tandem trunks but repeatedly was told by SWBT that it could not order tandem trunks. SWBT insisted on creating and augmenting direct end office trunking. SWBT also limited the number of trunks TWTC could order per day.[20] By limiting the number of trunks it would provision to eight T1s per day, SWBT prevented TWTC from ordering trunks in the quantity necessary to meet its forecasted demand. Although on a number of occasions SWBT did allow TWTC to order tandem trunks and did agree to provision more than eight trunks on a single day, generally SWBT only did so when blocking was occurring or about to occur.[21] TWTC was hopeful that SWBT's decision to add another tandem switch in Houston would alleviate SWBT's lack of tandem capacity, but this did not prove to be the case. Throughout 1999, TWTC continued to experience difficulties in obtaining a sufficient number of trunks from SWBT on a timely basis and lost business as a result.[22]

In its application and supporting affidavits, SWBT acknowledges that there have been problems with its trunking performance in Houston.[23] However, SWBT claims that its out-of-parity performance in October resulted from (1) the failure of a single CLEC to "closely monitor" its two-way trunks and add trunks when necessary and (2) the fact that trunks that were ordered were direct finals rather than high usage (*i.e.*, end office trunks that will "overflow" to the tandem).[24] One of the CLECs referred to by SWBT in its brief and affidavits is TWTC, which firmly rejects SWBT's attempt to assign blame to TWTC for SWBT's own poor trunking performance.[25]

---

20 TWTC Reeves Affidavit at ¶ 17.

21 TWTC Reeves Affidavit at ¶ 18.

22 TWTC Summitt Affidavit at ¶¶ 10-12.

23 SWBT Brief in Support of Application, p. 79; Dysart affidavit, pp. 138-139.

24 TWTC Summitt Affidavit at ¶11.

25 SWBT Brief, p. 79; Dysart Affidavit, pp. 138-139.

TWTC monitors the network closely, but it must rely on SWBT for certain information. If tandem trunks are blocked because of traffic that SWBT is sending to TWTC, TWTC's monitoring practices will show that the trunks are blocking traffic that originated in a specific SWBT end office, but TWTC cannot see the quantity of calls being blocked. Mr. Dysart's affidavit for SWBT states that the blocking occurred because TWTC "did not take appropriate action to add trunks when necessary." As shown in the affidavits of Mr. Summitt and Ms. Reeves, however, TWTC had been trying to order more trunks than SWBT was willing to provision for most of the year. In September 1999, SWBT told TWTC that one of its Houston tandems was "capped" and that no new orders would be accepted, indefinitely. [26]

As a result of SWBT's out-of-parity performance in Houston and SWBT's effort to have TWTC data removed, the PUC staff facilitated an all day meeting with TWTC and SWBT on November 29, 1999.[27] During the meeting, the parties discussed the reasons each believed was the cause of the problem, but were unable to reach agreement. They did, however, agree on some items they believed would lessen the likelihood of future problems. One such item was TWTC's proposal to submit quarterly, instead of biannual, forecasts.[28] Despite its commitment in that meeting to accept quarterly forecasts, SWBT recently told TWTC that it had decided it would not do so.[29]

Only as a result of increased pressure from the PUC and SWBT's desire to gain the PUC's 271 recommendation, did SWBT agree that the guideline of eight T1s per day would be increased to twelve T1s per day.

---

[26] TWTC is not the CLEC that purportedly ordered "direct final" trunks rather than "high usage" trunks, which caused blocking to occur.

[27] TWTC Summitt Affidavit at 11.

[28] TWTC Reeves Affidavit at ¶ 35.

[29] *Id.*

In an attempt to satisfy the PUC's concerns about the trunking problems in Houston, SWBT also agreed to a new interim performance measurement, PM 73.1, which measures the percent of held interconnection trunk orders greater than 90 calendar days.[30] This measurement will not be subject to the K exemption,[31] until the six-month review process. TWTC believes, however, that this measurement still fails to accurately reflect the number of due dates missed resulting from a lack of SWBT facilities, because it allows SWBT to hold orders for approximately four months and still be "in parity." Specifically, the business rules for this measurement provide that the clock "starts" on either the customer's due date or 21 business days after SWBT receives the trunk order, whichever is greater.[32] If SWBT cannot meet a due date because of a lack of facilities and the CLEC ordering the facilities has forecasted its demand, then the customers' due date or the 21st day after SWBT receives the trunk order should be a missed due date, not a starting point.

PM 73 is the original measurement created to monitor missed due dates. PM 74 is designed to measure the average delay days of missed due dates. CLECs have learned that if they place an order and SWBT cannot provision because of a lack of facilities, SWBT puts that order into "held order" status. When SWBT subsequently has the necessary facilities available, it resets the due date. Orders that were not provisioned because of a lack of facilities are not counted as a missed due date. The problem is not with PM 73 and 74 themselves, but with the way SWBT implements these measurements. The measurements are not intended to allow SWBT to exclude orders it cannot meet because it lacks facilities; only "customer caused misses" are to be excluded. Unless the lack of facilities is "caused" by the CLEC, this exclusion should not include held orders.

---

30 SWBT Dysart Affidavit at ¶ 141.

31 The K exemption is a mathematical formula that is used to adjust the number of allowed misses under the performance measures.

32 SWBT Dysart Affidavit at ¶ 141.

New PM 73.1 will show how long it takes SWBT to fill an order that is placed in held status, but because no penalty applies unless the order is not filled in within 90 days after the original missed due date, the trunk provisioning problem remains unaddressed and SWBT has no incentive to correct it.

2. Collocation

To satisfy Checklist Item 1, SWBT must demonstrate that it is providing timely and seamless access to its network. The Coalition recognizes and appreciates the considerable improvements that the Texas Commission ordered SWBT to include in its Collocation Tariff. Although the installation intervals still are too long for many CLECs, the principal concern the Coalition has regarding the Tariff concerns cageless collocation and SWBT's "security" measure of walling in its own equipment and making the CLEC pay for it as a "reasonable security measure." Specifically, Section 19.4 (D) of the Tariff requires a CLEC to pay the lesser of the costs incurred by SWBT to partition its own equipment or install a security camera.

SWBT affiant Michael Auinbaugh stated that this requirement comports with the FCC's Order released March 31, 1999 in CC Docket No. 98-147(FCC-99-48, para 46-49), which confirmed the ability of ILECs to take, and recover the costs of, reasonable security measures. The Coalition disagrees that the FCC's order contemplates that a reasonable security measure for cageless collocation would be constructing a partition surrounding its central office equipment and then letting the CLEC collocate in the space that is left. The Texas Commission successfully limited the CLECs' cost for this "reasonable security measure" to that of a security camera and also eliminated SWBT's ability to rely on the partition around its own equipment as the basis for a claim of space exhaustion. But, allowing SWBT to provide cageless collocation by putting a wall around its own equipment is most definitely not what the Commission had in mind as a reasonable security measure or that CLECs should have to pay for the cost of such a partition.

As shown by the attached affidavit of Gwen Rowling, this provision will be a significant burden to CLECs who desire to use cageless collocation because (1) the walling off of SWBT's

equipment will inevitably make it more difficult for the CLECs' technicians to access SWBT's MDF to install cross connects, and may actually further restrict the amount of space available in central offices, and (2) CLECs will have to either battle the issue of cost comparisons for security cameras vs. partitioning walls on a central-office-by-central-office basis or acquiesce and pay for SWBT's partition.[33]

B. Checklist Item II - Access to Unbundled Network Elements

Real-world experience convinces the CLEC Coalition that it is premature for SWBT to receive in-region, interLATA authority. As long as access to SWBT's network is as dependent on manual processes as it is today, SWBT has not fully opened its market to competition. Nothing will impede CLECs' ability to compete more than the OSS-related problems described in these Comments. Further, despite SWBT's effort to paint itself as another Bell Atlantic, the fact is that SWBT is not Bell Atlantic and SWBT's OSS was not subjected to the rigorous, independent third-party testing that is the hallmark of the Bell Atlantic-New York proceeding.[34] Contrary to SWBT's assertions in its Application,[35] SWBT's OSS does not even approach the caliber of Bell Atlantic's and had SWBT's OSS been subjected to the same level of scrutiny, far more problems would have surfaced than Telcordia found. Even so, had SWBT shown the same willingness to resolve service-affecting problems as Bell Atlantic did, many CLECs would be supporting, rather than contesting, SWBT's Texas Application.

KPMG's evaluation of Bell Atlantic's OSS should be the benchmark for other states. KPMG's military-style retesting procedures identified problematic areas and contributed to Bell Atlantic's implementation of many permanent solutions. By contrast, Telcordia's Report, was

---

33 ICG Rowling Affidavit at ¶ 48.

34 See AT&T's comments on Final Report, p. 2 (". . . opportunity to explore real life issues in context of OSS test environment has been squandered due in large measure to limitations in testing size and scope . . .").

35 See SWBT Brief in Support of Application, p. 12.

short on substance and is a superficial and abbreviated evaluation of SWBT's OSS at best.[36] Out of the more than 120 performance measurements that exist, Telcordia conducted statistical sampling on six or less.[37] Moreover, the KPMG OSS tests were conducted in an open, collaborative environment in which the tester actively consulted with interested parties. Telcordia's tests, by contrast, were conducted in a relatively closed environment. Attendance was limited and in an effort to avoid "record-making," no minutes were taken, no action items recorded and no summaries of the TAG "working group" meetings were permitted to be circulated. Even more telling is that, unlike the process with Bell Atlantic, CLECs have been unable to identify a single instance in which Telcordia contacted even one CLEC representative prior to preparing its conclusions. In addition, in almost every instance in which Telcordia identified a problem, Telcordia closed the issue, claiming that the issue was resolved, based either on SWBT's limited performance during the truncated retest period,[38] or on promises that SWBT would do better next time.[39]

SWBT's inferior CLEC-related OSS necessarily renders CLECs less efficient than SWBT in providing service to CLEC end users. SWBT is able to provide real-time processing for its retail services that it is unable to provide to its CLEC wholesale customers. SWBT's CLEC-

---

[36] Telcordia reviewed a very narrow range of OSS-related activities, appeared to be inappropriately dependent on SWBT's subject matter experts for evaluation and conclusion, and rarely conducted or reported root cause analysis. See, AT&T's Comments on Attachment J, September 1, 1999, p. 2 and AT&T's Comments on Final Report, October 13, 1999, pp. 2-4 both in Project No. 20000. Although Telcordia failed to address a number of critical issues, *supra*, Telcordia's Final Report identified numerous deficiencies in SWBT's OSS including: capacity and scalability, hot cuts, RPONs, manual processing, DSL ordering and provisioning, and performance measures related to each of these issues.

[37] Telcordia simply did not conduct an independent evaluation of the data collected by SWBT. Statistical analysis should have been performed on each one of the measurements to validate the collected data.

[38] In spite of the gravity of the issues that arose during the initial test period, the retest only lasted two weeks, from 8/30/99 to 9/13/99. Thus, given the very low volume of orders involved during the initial test and retest, no issue should have been closed merely because it failed to reoccur during the limited retest period.

[39] See, AT&T's Comments on Telcordia Final Report, October 13, 1999, pp. 15-16 and pp. 20-21 in Project No. 20000. In fact, many of the interested parties involved in the process complained that SWBT's role was too prominent for the tests to be considered "independent." *Id.*

related OSS are only superficially integrated, if at all, so CLECs mechanically submit orders, only to have such orders fall out for manual processing, leading to additional delays and increasing risks of error.[40]

Moreover, the sheer number of points of manual intervention identified in the limited sampling of Telcordia's functionality test cases appears to underlie a significant portion of the problems that are occurring in CLEC's commercial experiences. Throughout its Final Report, Telcordia repeatedly identified issues as resulting from "SWBT manual error," "manual handling," and "workforce" and training issues.[41] In order for CLECs to be effective service providers, they must have access to SWBT's automated OSS functionality on parity with the OSS SWBT uses for its retail services. CLECs can hardly be expected to focus on providing reliable service to their end users given SWBT's inadequate and unreliable CLEC-related OSS.

1. The Telcordia Report is Inadequate

A chief criticism of the Telcordia Report is that in many instances Telcordia closed issues without being able to confirm that the issue could not recur.[42] Indeed, Telcordia closed issues that arose during testing if they did not recur during retest, even if the full range of the activity at issue did not end before the retest period had concluded.[43] Closing issues simply because they

---

[40] See, CLEC Coalition Comments, October 13, 1999, pp. 11-12 in Project No. 20000 and Northpoint's Comments on Telcordia Final Report, October 13, 1999, pp. 3-6 ("It is important to note that while Telcordia may have found SWBT's manual processes 'workable,' this does not mean these processes are nondiscriminatory as required by § 251 and § 271 . . . .").

[41] In response to errors attributed to SWBT during UNE-L testing, Telcordia provided the following analysis: "Telcordia has concluded that coordination problems do occur during cutovers. However, the issues that were discovered also occur for retail customers, *e.g.*, mislabeled circuits at demarcations." Telcordia Final Report, 4.1.3.1.2 at 23. Thus, it appears that, because SWBT seems unable to properly label circuits for its retail service, it is perfectly fine to perform at the same level of mediocrity for CLECs.

[42] Telcordia should have required SWBT to demonstrate that it was able to provide the root cause before closing issues. Real world issues were never analyzed and specific, customer-affecting problems were closed without root cause analysis. (CompTel/TEXALTEL Letter, October 13, 1999, pp. 6-7; AT&T Comments, October 13, 1999, pp. 2-4; pp. 35-37; pp. 38-42 in Project No. 20000.

[43] During UNE-L testing, Telcordia closed an issue with the following note regarding root cause: "None. The retest ended before all SOCs were received." Telcordia Final Report, Att. A, No. UL-RT-16 at A-60-61.

did not recur during the retest period does not satisfy the demands of section 271. Under the circumstances described in the Final Report, no issue should have been closed until the underlying problems impacting commercial activity were resolved.[44]

Moreover, Telcordia's analysis ended when any part of the OSS process resulted in manual intervention.[45] Given that the purpose of the test was to determine if SWBT's systems could accommodate reasonable commercial volumes, this failure to test items requiring manual intervention is a serious and fundamental flaw. It is especially egregious considering that the majority of CLEC orders fall out for manual processing.[46] It is impossible to determine whether SWBT's OSS is commercially ready if a significant portion of orders that would normally be processed are not evaluated by the third-party tester. Moreover, the scalability and capacity tests did not consider manual processes. Thus, while it clearly was necessary to properly evaluate the commercial readiness of SWBT's OSS, it also was essential that Telcordia analyze and retest all of the manual processes. KPMG recognized this and did so in New York; the Texas Commission did not require Telcordia to do so. This was a significant and disturbing omission.

Telcordia's test did not include a reliable evaluation of the service orders that most CLECs typically submit and did not include a test of LEX, the electronic interface almost all Texas facilities-based CLECs are using.[47] Just as important, the parameters of the test Telcordia

---

[44] Only a small number of CLECs participated on conference calls seeking guidance regarding a number of issues associated with "Attachment J" of Telcordia's Interim Report. However, instead of the collaborative and informative presentations made by KPMG, the CLECs were confronted by an aggressive Telcordia, which appeared to believe that its sole purpose was to ensure that SWBT's business rules were implemented as drafted, even if implementation as drafted created obvious discrepancies.

[45] According to the Final Report nearly one-half of CLEC orders were manually transmitted for the month of August. Telcordia Final Report, 5.1.1.1. The Final Report, however, contains no findings relative to SWBT's performance in processing these manually submitted orders. In fact, the Master Test Plan expressly excludes a review of the processing of manual orders. Comments of AT&T, October 13, 1999, p. 29. See also, CLEC Coalition Comments, October 13, 1999, p. 7.

[46] NEXTLINK Draper Affidavit at ¶ 25.

[47] The LEX system is intended by SWBT to be an end-to-end mechanized electronic interface. SWBT claims that "Once CLEC LSRs entered into LEX pass initial automated edits by SWBT's systems, they are provisioned in exactly the same manner as analogous SWBT retail orders." SWBT Brief in Support of Application, p. 86; Ham

did conduct were very narrow and did not evaluate back end office systems.[48] Additionally, Telcordia's functionality tests involved very low numbers of orders that are not representative of CLEC orders. For example, a member of the CLEC Coalition's average number of loops in one order is higher than the average 2-3 lines in the UNE-L test (*e.g.*, no more than 5 lines, no DID).[49] The test ignored issues regarding complex orders, including PBX trunks, DID service, DS-1 based service, etc. While acknowledging the enormity of the task Telcordia undertook, the fact is that Telcordia failed to design its test and conduct its efforts so as to accomplish the task set before it: to properly evaluate SWBT's OSS (electronic and manual operations) to determine whether the systems were commercially ready.[50]

The CLEC Coalition members believe that SWBT is unable to support its current CLEC order volumes and they have little hope that SWBT will improve its operations to meet higher commercial volumes. In PUC Open Meetings and collaborative work sessions, SWBT continually claimed that it had the ability to scale up its staffing to meet greater volumes of CLEC orders; however, in most cases, this has not been true and where it has been true the additional staff have been poorly trained leading to further problems for CLECs.[51]

Affidavit, ¶ 121.

[48] "Therefore, these [back end office] systems were not included in the detailed observation and analysis activities, although they are inherently part of the process for providing results." Telcordia Final Report, 4.1.1 at 21.

[49] See Birch Tidwell and Kettler Affidavit at ¶ 141.

[50] An example of the superficial level of Telcordia's analysis was evidenced during the discussion of FOCs and SOCs. Telcordia reported an instance in which it determined that SWBT had sent the notice, but that it was obvious the CLEC could not view the notice. Instead of conducting *any* kind of analysis to determine why CLECs were unable to view the notice, Telcordia merely accepted SWBT's explanation that the CLEC had turned off its connection. Telcordia accepted this explanation from SWBT even though the CLECs in the test had "always on" connections.

[51] NEXTLINK Draper Affidavit at ¶¶ 11-12; ICG Rowling Affidavit at ¶¶ 30-33.

2. The Telcordia Report Did Not Adequately Evaluate LEX

No independent test was conducted to validate LEX system's operation because LEX was not tested for UNEs.[52] With respect to BellSouth, the FCC has said: "Given the low volume of actual commercial usage, it is crucial to have testing results that provide *reliable and predictable results* of how BellSouth's systems would respond to actual commercial usage."[53] To the extent Telcordia's observations are inconsistent with CLECs' actual experience, the test results cannot be accepted as "reliable and predictable" indications of SWBT's OSS performance.

Furthermore, the failure to review LEX in the Telcordia test makes it difficult to address issues that can assist the CLEC in order management activities, thereby requiring them to rely upon SWBT.[54] For example, the reports provided by LEX do not contain related identifying numbers that would permit a CLEC to relate reports out of the ordering system, LEX, and SWBT's back office systems. A LEX user thus cannot determine the number of orders in FOC status that have missed due dates without looking at each individual order.[55] In addition, the LEX user cannot assess the commercial impact of SWBT's service without information as to why orders have not been provisioned by their due date.[56]

3. The Continued Use of Manual Processes for OSS

SWBT's continuing reliance on manual processes to facilitate the ordering, provisioning, maintenance and repair, and billing of telecommunication services and network elements harms

---

52 Indeed, despite the overwhelming use of LEX by CLECs to submit most of their UNE-L and UNE-P orders, LEX was only tested for Resale.

53 Second BellSouth Louisiana Order at ¶ 140, (emphasis added).

54 LEX cannot even be used for complex orders like DID or BRI. LEX requires a CLEC to enter every line for DID, not a range at significant risk of manual typing error. The workaround for BRI (to send over one order for line with LNP, and one for standalone LNP) is not available to CLECs because SWBT does not know how to make it work. While CLECs can submit orders for T1s via LEX, and a CLEC may even get back the FOC within the appropriate interval, most are ultimately rejected. Once these orders are resubmitted, SWBT frequently rejects the new orders because they believe them to be duplicates.

55 *Id.*

56 *Id.*